

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-1087
Judge John T. Copenhaver, Jr.

\$88,029.08, MORE OR LESS,
IN UNITED STATES CURRENCY,

Defendant.

(Katherine Anne Hoover, M.D. and
John F. Tomasic, interested parties;
no pending federal charges)

**REPLY MEMORANDUM IN SUPPORT OF THE
MOTION OF THE UNITED STATES OF AMERICA
UNDER FED.R.CIV.P. 37 AND OTHER APPLICABLE FEDERAL LAW
FOR SANCTIONS TO BE IMPOSED AGAINST
KATHERINE ANNE HOOVER, M.D., FOR HER FAILURE
TO APPEAR FOR HER COURT-ORDERED DEPOSITION**

Claimants John F. Tomasic and Katherine A. Hoover, M.D., filed their Motion To Compel AUSA Pullin To Submit Form SF 3881 To United States Marshall To Return \$27,671.50 As Ordered And To File Sanctions Against AUSA Pullin on September 22, 2011. See Docket No. 113. Page 2 of that document contains their only response to date regarding the United States' Motion For Sanctions against Katherine A. Hoover, M.D., for her failure to obey two court orders compelling her to appear for previously scheduled deposition ordered by the Court. Id. at p. 2 (first paragraph on the page). The Claimants contend that the United States' Motion For Sanctions against Dr. Hoover is "moot" because the civil forfeiture actions are "an illegal attempt to acquire jurisdiction which the government does not have." Id.

As this Court has previously ruled, the Claimants' argument that this Court lacks subject matter jurisdiction is frivolous and completely lacks merit. In fact, the Court has warned Dr. Hoover that continuing to assert this frivolous defense in and of itself could result in the imposition of sanctions. See Order entered August 8, 2011, at 13n.3 (Docket No. 93).

Dr. Hoover has simply ignored the Court's rulings requiring her to appear for her deposition and has decided to completely ignore the discovery process. In light of Dr. Hoover's actions and inactions, it is clear that the United States is entitled to sanctions against her for her failure to appear for her court-ordered deposition. See the United States Motion For Sanctions and the Memorandum In Support of the United States' Motion For Sanctions (and the authorities cited therein) (Docket Nos. 104 & 105). Accordingly, the United States respectfully requests that its Motion For Sanctions previously filed herein be granted, that sanctions be awarded and imposed against Dr. Hoover as requested in its Motion For Sanctions, and that the United States be granted such other and further relief as the Court deems appropriate.

**Respectfully submitted,
R. BOOTH GOODWIN II
United States Attorney**

s/Fred B. Westfall, Jr.
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CERTIFICATE OF SERVICE

I electronically filed the foregoing “**REPLY MEMORANDUM IN SUPPORT OF THE MOTION OF THE UNITED STATES OF AMERICA UNDER FED.R.CIV.P. 37 AND OTHER APPLICABLE FEDERAL LAW FOR SANCTIONS TO BE IMPOSED AGAINST KATHERINE ANNE HOOVER, M.D., FOR HER FAILURE TO APPEAR FOR HER COURT-ORDERED DEPOSITION**” with the Clerk of Court using the CM/ECF system this 26th day of September, 2011, and I hereby certify that service was made this day, by Federal Express International to the following:

Katherine Anne Hoover, MD and John F. Tomasic
c/o Dr. Norman Gay
N-3222
247 West Bay Street
Nassau, N.P. Bahamas

s/ Fred B. Westfall, Jr.
Assistant United States Attorney